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WASHINGTON STATE  
LIQUOR CONTROL BOARD

BEFORE THE WASHINGTON STATE LIQUOR CONTROL BOARD

In the Matter of the Petition of )

WASHINGTON BEER & WINE  
WHOLESALE ASSOCIATION,  
INC. )

AMENDED PETITION

For Amendment of Rule (81) )

Comes now Washington Beer & Wine Wholesalers Association,  
Inc., petitioner herein, and states:

I

Washington Beer & Wine Wholesalers Association, Inc., 1006  
Securities Building, Seattle, Washington, 98101, hereby petitions the State  
Liquor Control Board, seeking the amendment of Rule (81).

II

Petitioner seeks the amendment of the rule substantially as set  
forth hereafter:

(81) Wine Price Posting

(1) Every ((domestic winery and every certificate of approval holder)) wine wholesaler shall file with the board at its office in Olympia a wine price posting, showing the delivered wholesale prices at which any and all brands of wine offered for sale by such ((domestic winery or certificate of approval holder)) wine wholesaler shall be sold ((by wine wholesalers)) to retailers within the state. ((Each such schedule of wholesale prices shall be uniform for all retailers within the state.))

(2) All ((price postings)) written contracts from domestic wineries and certificate of approval holders must be received by the board not later than the ((fifteenth)) twenty-fifth day of the month, and if approved will become effective on the first day of the second calendar month following the date of such filing. An additional period will be allowed for revision of price postings to correct errors and omissions, or to make normal price changes, but a revised posting must be on file at the board office by not later than the first day of the month in order to become effective on the first day of the next calendar month. All price postings from wine wholesalers must be received by the board not later than the fifteenth day of the month, and if approved will become effective on the first day

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NO. 038

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of the calendar month following the date of such filing. An additional period, not to exceed five days, will be allowed for revision of a price posting, to correct errors, omissions, or to make normal price changes, but a revised posting must be on file at the board office by not later than the twentieth day of the month in order to become effective on the first day of the next calendar month.

(3) Filing Date Exception--Whenever the fifteenth day of any month falls on Saturday, Sunday or a legal holiday, an original price posting may be filed not later than the close of business the next business day.

(4) In the event that a ((domestic winery or certificate of approval holder)) wine wholesaler determines to make no changes in any items or prices listed in the last filed and approved schedule, such prices listed in the schedule previously filed and in effect, shall remain in effect for each succeeding calendar month until a revised or amended schedule is filed and approved, as provided herein. When-- ever a wine wholesaler posts a reduced price on any package or packages, the reduced price shall remain in effect for a period of not less than 180 days from the effective date of such posting, except when said posting would result in a violation of Regulation (124)(4).

(5) Postings shall be submitted upon forms prescribed and furnished by the board, and shall set forth:

(a) All brands, types and sizes of packages or containers of wine offered for sale in this state by such domestic winery or certificate of approval holder, which packages or containers shall be limited to the sizes permitted in Regulation (66).

(b) The delivered wholesale prices thereof within the state, including allowances, if any, for returned empty packages or containers. Such posted prices shall not include the tax of 26 per cent of the wholesale selling price, levied under RCW 82.08.150(1), which must be collected by the wine wholesaler and remitted directly to the state department of revenue.

(c) No wine wholesaler shall sell or offer for sale any package or container of wine at a price differing from the price of such item as shown in the price posting then in effect.

(( (d) Prices posted by a domestic winery or certificate of approval holder shall be consistent as between the various packages and containers offered for sale.))

(( (e) )) (d) No price postings involving temporary price reductions or quantity discounts shall be made. No price shall be posted which is below "cost", or below "cost of doing business," or a "loss leader" as those terms are defined in Regulation (124) (( (e) )) (4).

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(( f )) (e) Wholesale prices on a "close out" item shall be accepted by the board only if the item to be discontinued has been listed on the state market for a period of at least six months, and upon the further condition that such item will not be imported for sale in this state for a period of one year following the approval of such "close out". The wholesale price on such an item shall be deemed acceptable only if it is in compliance with the provisions of Regulation (124) ((-e)) (4).

6. The board may reject any price posting or portion thereof which it deems to be in violation of this or any other regulation or which would tend to disrupt the orderly sale and distribution of wine. Whenever the board shall reject any posting the licensee submitting said posting may be heard by the board and shall have the burden of showing that the posting is not in violation of regulation and/or does not tend to disrupt the orderly sale and distribution of wine. Thereupon if said posting is accepted it shall become effective at a time fixed by the board. If said posting or portion thereof is rejected the last effective posting shall remain in effect, until such time as an amended posting is filed and approved in accordance with the provisions of this regulation.

All price postings filed as required by this regulation shall at all times after approval be open to inspection to all trade buyers within the state of Washington and shall not in any sense be considered confidential.

### III

The Washington Beer & Wine Wholesalers Association, Inc., is composed of the beer and wine wholesalers throughout the state of Washington and is therefore interested in the proposed amendment on behalf of its members.

The purpose of the proposed amendment is to enable the independently owned and operated wine wholesaler to establish, subject to board regulation, its own wholesale prices to retailer. Secondly, to provide a more orderly method for the filing of contracts and posting, and, lastly, to provide a 180 day "post-off" protection necessary to maintain an orderly market.

### IV

Wholesalers of manufactured wine brands are requesting a right, which is presently enjoyed by other businesses in the state--in essence, the privilege to establish prices to retailer.

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V

A 180-day provision against "post-offs" will guard against any winery demanding its wholesalers to reduce the price on one or more packages for a brief period of time with the intent to score a quick sale on that item or items under the disguise of a "special deal." "Post-offs" not only tend to disrupt an orderly market, but in many incidences are contrary to and in violation of the board's regulation.

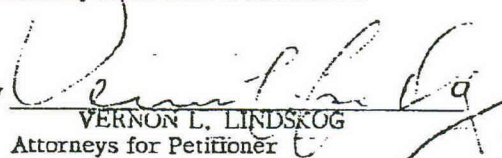
VI

A 15-day period between the time a supplier could file written contracts and when a wholesaler could file price schedules would allow the wholesaler time to adjust its selling prices, either up or down, contingent on whether the supplier's contract prices to it were increased or decreased from the previous filing. If the supplier's prices were increased to it, then it would have the opportunity to adjust its selling prices to compensate for its cost of doing business and to adjust to the present business climate.

WHEREFORE, petitioner respectfully requests the Washington State Liquor Control Board to amend Rule (81) of Rules and Regulations promulgated by said board, in accordance with the proposed amendments set forth in paragraph II herein.

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By

  
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